

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

JASON CANTRELL #397429,

Plaintiff,

NO. 1:18-cv-1163

v

HON. GORDON J. QUIST

MICHIGAN DEPARTMENT OF
CORRECTIONS, ANTHONY HEILIG,
and SCOTT ARP,

MAG. PHILLIP J. GREEN

Defendants.

Exhibit B

Class I Misconduct Hearing Report (2pp)

Charge: Assault and Battery (2015)

Violation Date: August 19, 2017

Hearing Date: August 23, 2017

MICHIGAN DEPARTMENT OF CORRECTIONS

CLASS I MISCONDUCT HEARING REPORT

Prisoner 397429	Prisoner Name Cantrell	Facility Code IBC	Lock 8-27	Violation Date 08/19/2017
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Charge(s)
Assault and Battery (2015)

If Charge Changed by Hearing Officer

Misconduct Report Read to and Discussed with Prisoner ☒ (check if applies)
Hearing Investigation Read to and Discussed with Prisoner ☒ (check if applies)

Plea
☐ Guilty ☒ Not Guilty

No Hearing Investigation Requested
☐ (check if applies)

EVIDENCE/STATEMENTS IN ADDITION TO MISCONDUCT REPORT

I began the hearing by viewing a video outside of prisoner's presence. The video shows four officers escorting prisoner on the wing. As prisoner and the officers step down the stairs, one of the officers loses his balance. After reaching the bottom of the stairs and the staff are escorting prisoner, one of the officers places his foot under prisoner, tripping him. Staff and prisoner go to the floor. The video and video statement are marked confidential for security purposes. Prisoner present. Video summarized. All documents are one page unless otherwise noted. Misconduct Report, Hearing Investigation Report, including prisoner's statement to the hearing investigator, Misconduct Sanction Screening Form, read to and discussed with prisoner.

ORAL STATEMENT FROM PRISONER AT HEARING:
I was going with the motion. I did not do anything wrong.

I told prisoner the decision, sanction and dates prior to his leaving the hearing room.

DUE PROCESS: It is noted that the reporter placed an incorrect prisoner number on the Misconduct Report. I find this to be harmless clerical error.

REASONS FOR FINDINGS

PD 03.03.105 defines assault and battery as an intentional, non-consensual touching of another person done either in anger or with the purpose of abusing or injuring another, physical resistance or physical interference with an employee. Injury is not necessary but contact is. The reporter says that while he was escorting prisoner, prisoner pulled away at the top of the stairs, causing the reporter to lose his balance. Prisoner continued to tense his body and resist staff escort to gain control. Prisoner continued to resist while he was on the floor. The video shows the reporter lose his footing, but it is not clear that prisoner at any time tenses up. Prisoner's explanation of the event, that he was just going with the motion, also is consistent with the video. Three other staff members were present, but their statements were not submitted to determine the veracity of the reporter or of prisoner. Without such statements of verification, I am not convinced that prisoner physically resisted or interfered with an employee. In addition, the Misconduct Report and the video do not indicate that prisoner's action was a non-consensual touching of another person done either in anger or with the purpose of abusing or injuring another.

PROPERTY DISPOSITION (for contraband see PD.04.07.112)

FINDINGS

Charge No. 1	<input checked="" type="checkbox"/> Guilty	<input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code 008
Charge No. 2	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____
Charge No. 3	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____
Charge No. 4	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____

DISPOSITION (select one or more) (Toplock & LOP Sanctions End at 6:00 am)

Days of Detention	_____	_____	_____	Days Credit
Days Top Lock	_____	_____	_____	Hours Extra Duty
Days Loss of Privileges	_____	_____	_____	Restitution

Misconduct Hearing Report personally handed to Prisoner by Hearing Officer on this date: _____ (Check if Applies) ☐

Hearing Report given to Staff Member by Hearing Officer for Delivery to Prisoner this date: **8/23/2017** (Check if Applies) ☒

Date of Hearing **08/23/2017**

Hearing Officer's Name **S. Burke 053**

Hearing Officer's Signature *S. Burke*

Date **8-23-17**

DISTRIBUTION Record Office, Central Office File, Prisoner, Counselor File, Hearing Investigator

MICHIGAN DEPARTMENT OF CORRECTIONS
MISCONDUCT REPORTCSJ-228
10/10 4835-3228

Prisoner Number: 397428	Prisoner Name: Contrell	Facility Code: IBC	Lock: 2-246 B	Violation Date: 8-19-17
Time and Place of Violation: 2015 Housing Unit 2 B Upper		Contraband Removal Record Provided to Prisoner? <input type="checkbox"/> Yes <input type="checkbox"/> N/A		
Misconduct Class: <input checked="" type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III		Charge(s): Assault and Battery (STAFF VICTIM)		
Describe Violation (If contraband involved, describe in detail; identify any other employee witnesses): While escorting Prisoner Contrell #397428 From 2-246 B to Housing Unit B He pulled away At the top of the stairs causing me to lose my Balance. Prisoner Contrell Continued to tense his Body and Resist our Efforts to gain control. Prisoner Contrell was placed on the ground, given orders to Stop Resisting. Prisoner Contrell continued to Resist. We gained control of Prisoner Contrell and Finished the Escort to Housing Unit B. ID by State ID & Huz Count Board.				
Reporting Staff Member's Name (Print) Heilig		Reporting Staff Member's Signature 		Date and Time Written 8-19-17 2111
REVIEW				
Location/Verification/Condition of Evidence: /				
Elevated to Class I at review: <input type="checkbox"/> No <input type="checkbox"/> Yes If "yes", explain reason:				
COMPLETE THIS SECTION ONLY FOR REVIEW OF CLASS I MISCONDUCT				
Status Pending Hearing: <input type="checkbox"/> Bond <input checked="" type="checkbox"/> Segregation <input type="checkbox"/> Confinement to Cell/Room <input type="checkbox"/> Other				
Reason If Non-Bond: <input checked="" type="checkbox"/> Non-Bond List <input type="checkbox"/> Bond Revoked (must give reason)				
Date and Time Given this Status: 8-19-17 2120		Who Notified In Housing Unit of Status: Sgt Johnson		
Hearing Investigator Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		Witnesses Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes If yes, list:		
Relevant Documents Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, list:				
Additional Comments:		Prisoner Waives 24 Hour Notice of Hearing? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Hearing Date: 8-21-2017		
Reviewing Officer's Name (Print) Lt. S. Gilbert		Reviewing Officer's Signature 		Review Date and Time 8-19-17 2130
I have received a copy of this report. My signature does not necessarily mean that I agree with the report. <input checked="" type="checkbox"/> Prisoner refused to sign. Copy given to prisoner.		Prisoner's Signature		Date
WAIVER OF CLASS II OR III HEARING				
I understand I have a right to a hearing. I waive my right to a hearing and plead guilty to all charges. I also waive my right to appeal and accept the sanctions imposed.		Prisoner's Signature		Date
SANCTIONS IMPOSED (Hearing Investigator enters begin and end dates for Class II misconducts)				
Days Toplock	Begins: _____	Ends: _____	<input type="checkbox"/> Counseling/Reprimand (Class III only)	
Days Loss of Privileges	Begins: _____	Ends: _____	<input type="checkbox"/> \$ _____ Restitution (Class II only)	
Hours Extra Duty	Begins: _____	Ends: _____		
Property Disposition If Applicable: _____				
Employee Accepting Plea and Imposing Sanction (Print)		Employee's Signature		Date
Hearing Investigator's Name (Print)		Hearing Investigator's Signature		Date

Distribution: Prisoner; Counselor File; Record Office File (Class I and II); Central Office File (Class II); Hearing Investigator (Class I & Class II)